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E.O. 12958: DECL: 10/05/2017

TAGS: UNGA UNGA

SUBJECT: 62ND UNGA: SIXTH COMMITTEE- UN SECRETARIAT NOTE
ON CRIMINAL ACCOUNTABILITY OF UN OFFICIALS

REF: 00790

Classified By: Ambassador Alejandro D. Wolff, for reasons 1.4(b) and (d).).

¶1. (C) USUN Legal Adviser contacted ASyG for Legal Affairs Larry Johnson October 5 to advise him, per reftel, that the United State would prefer that the UN not issue its draft note on "Criminal Accountability of United Nations Officials and Experts on Missions" as an official document. Johnson responded that the note had been circulated as an official document today. (Note: It is dated September 11, the date the UN submitted it for translation).

2.(C) USUN had previously expressed concern about this note in which the Secretariat expresses unsolicited views about issues currently being negotiated by member states. In a conversation on September 24, USUN told Johnson that the note, distributed informally to Sixth Committee representatives, was a departure from the practice that the Office of Legal Affairs does not produce opinions unless mandated by a Committee and that the Secretariat maintains a neutral stance in negotiations among member states. Johnson was informed that USUN expected to receive an instruction to request the UN not to circulate the note. He said that the note had been prepared by the Department of Peacekeeping Operations with some OLA input and had been cleared by his office. Johnson said that he would inform the UN Legal Counsel, Nicolas Michel of U.S. views and that an official request that it not be circulated was anticipated.

3.(C) In an earlier conversation, when USUN first raised this issue with the OLA attorney directly involved in preparing the document, he said that because of the subject matter - UN Personnel - the UN felt their views would be of interest to member states. USUN Legal Adviser pointed out that positions taken by the Secretariat could prejudice the negotiations. Comment. Both the staff attorney and subsequently Johnson seemed to understand that publication of the paper overstepped the bounds of the Secretariat's mandate but proceeded nevertheless. End Comment.

KHALILZAD